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10/2/07

In re Application of:	:	
Shimada, Takaaki, et al.	:	
Serial No. 10/764,589	:	
Filed: Jan. 27, 2004	:	
Docket: 2038-323	:	DECISION ON PETITION
Title:	:	UNDER 37 CFR § 1.181
PANTS-TYPE DISPOSABLE	:	
WEARING ARTICLE	:	

This is a decision on the petitions filed Sep. 6, 2007 under 37 CFR 1.181 requesting supervisory review of the advisory action mailed Jul. 6, 2007. In the petition, petitioner requests entry of the amendment after final filed on Jun. 14, 2007 under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

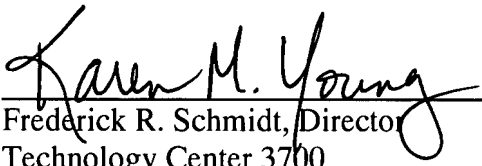
The petition is granted.

The examiner was requested to enter the amendment after final filed on Jun. 14, 2007 for appeal purposes because the amendment neither raised new issues nor added new claims. Additionally, some claims were canceled to reduce the issues of appeal. A review of the final rejection shows that all claims were rejected under 35 USC 102(b) as anticipated by Okuda, et al. (JP 2001157690). In the present amendment under 37 CFR 1.116, the applicant merely re-writes claims 4, 11, 13, and 18 in independent form without any changes of scope and cancels claims 1-3, 7-10 and 17 without adding any new claims to reduce the appealable issues. Therefore, there is no reason not to enter the amendment after final for appeal purposes. All claims remain rejected under 35 USC 102(b) as anticipated by Okuda et al (JP 2001157690).

In finding petitioner's points of argument persuasive, the requested relief is granted. The advisory action mailed on Jul. 6, 2007 is hereby vacated. A new advisory action will be issued in due course not inconsistent with the present decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for 
Frederick R. Schmidt, Director
Technology Center 3700